IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7457 of 1989

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHUNILAL S SHAH

Versus

RANCHHODBHAI V

Appearance:

MR BJ JADEJA for Petitioners

MR ND GOHIL AGP for Respondent No. 1

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 05/05/2000

ORAL JUDGEMENT

Heard the learned advocates.

The petitioner challenges the order dated 20th September, 1985, made by the Prant Officer, Gandhinagar, in Fragmentation Case No. 216/82, and the order dated 30th May, 1989/13th June, 1989, made by the Additional

Chief Secretary, Revenue (Appeals) in Appeal SRD No. 7/88 confirming the above referred order dated 20th September, 1985. Feeling aggrieved, the petitioner has preferred the present petition under Article 227 of the Constitution of India.

The facts leading to the present petition are as under :

The petitioner had, in the year 1966, purchased a parcel of land from the land bearing Block No. 674, situated at village Adalaj from one Ranchhodbhai Vallabhbhai. The Revenue Entry No. 4444 was made in the Record of Rights on 26th September, 1966. Since then, the petitioner purchased another parcel of land admeasuring 3-Acre-22 Gunthas from the remainder of the said land bearing Block No. 674 from one Ranchhodbhai Vallabhbhai on 28th October, 1971. The said piece of land admeasuring 3-Acre-22 Gunthas was sold by the petitioner to one Rameshchandra-respondent no.2 herein on 3rd March, 1982. Entry No. 6796 in this regard was made in the Revenue Records on 15th May, 1982. Thereupon the proceedings under the Bombay Prevention of Fragmentation and Consolidation of Holdings, Act, 1947, were initiated by the Prant Officer as Fragmentation Case fsNo. 216/82. It appears that no notice was issued to the purchaser-respondent no.2 herein and the said proceedings having not been attended to, were disposed of on 20th September, 1985. It was held that transfer of the piece of land admeasuring 3-Acre-22 Gunthas of the land bearing Block No. 674 was made in favour of the petitioner in the year 1971, in violation of the provisions of the Act and was invalid. A fine of Rs.100/- was imposed upon the petitioner, and order for summary eviction was also made. Feeling aggrieved, the petitioner preferred appeal before the Additional Chief Secretary, Revenue (Appeals), which too was dismissed on 30th May, 1989, as aforesaid. Feeling aggrieved, the petitioner has preferred the present petition.

The petition requires to be allowed on the ground of gross delay and laches alone. Be it noted that the petitioner had purchased the disputed piece of land on 28th October, 1971, Revenue entry to that effect was made in the Revenue Records in the same year i.e. 1971. However, the proceedings under the Act has been initiated as late as in the year 1982, that too, after the said piece of land was disposed of by the petitioner in favour of the respondent no.2 herein. The delay has not been explained in any manner. It must, therefore, be held that the proceedings have been initiated after

unconscionably long time and after the right in the third party was created.

Petition is, therefore, allowed. The impugned order dated 28th September, 1985 made by the Prant Officer in Fragmentation Case No. 216/82 and the order dated 30th May, 1989 made by the Additional Chief Secretary, Revenue (Appeals) made in Appeal No. SRD-7/88, are quashed and set aside. Rule is made absolute. There shall be no order as to costs.

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JOSHI